# Community Guaranty Savings Bank

April **8,** 2004

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Attn: Docket No. R-1180

Re: EGRPRA Review of Consumer Protection Lending Related Rules

Dear Ms. Johnson:

As a community banker, I greatly welcome the regulators' effort on the critical problem of regulatory burden. Community bankers work hard to establish the trust and confidence with our customers that are fundamental to customer service, but consumer protection rules frequently interfere with our ability to serve our Customers. **The community banking industry is slowly being crushed under the cumulative weight of regulatory burden, something that must be addressed by Congress and the regulatory agencies before it is too late.** This is especially true for consumer protection lending rules, which though well intentioned, unnecessarily increase costs for consumers and prevent banks from serving customers. While each individual requirement may not be burdensome itself, the cumulative impact of consumer lending rules, buy driving up costs and slowing processing time for loans from legitimate lenders, helps create a fertile ground for predatory lenders. **It's time to acknowledge that consumer protection regulations are not only a burden to banks but are also a problem for consumers.**

*Truth in Lending(Federal Reserve Regulation Z)*
*Right of Rescission.* **One of the most burdensome requirements is the three-day right of rescission under Regulation Z.** Rarely, if ever, does a consumer exercise the right. Consumers resent having to wait three additional days to receive loan proceeds after the loan is closed, and they often blame the bank for "withholding" their funds. Even though this is a statutory requirement, inflexibility in the regulation making it difficult to waive the right of rescission aggravates the problem. If not outright repealed, depository institutions should at least be given much greater latitude to allow customers to waive the right.

*Finance Charges.* Another problem under Regulation Z is the definition of the finance charge. Assessing what must be included in - or excluded from - the finance charge is not easily determined, especially fees and charges levied by third parties. And yet, the calculation of the finance charge is critical in properly calculating the annual percentage rate (APR). This process desperately needs simplification so that *all* consumers can understand the APR and bankers can easily calculate it.

*Credit Card Loans.* Resolution of billing-errors within the given and limited timeframes for credit card disputes in not always practical. The rules for resolving billing-errors are heavily weighted in favor of the consumer, making banks increasingly subject to fraud as individuals learn how to game the system, even going so far as to do so to avoid legitimate bills at the expense of the bank. There should be increased penalties for frivolous claims and more responsibility expected of consumers.

### Equal Credit Opportunity Act(Federal Reserve Regulation B)
Regulation B created a number of compliance problems and burdens for banks. Knowing when an application has taken place, for instance, is often difficult because the line between an inquiry and an application is not clearly defined.

*Spousal Signature.* Another problem is the issue of spousal signatures. The requirements make it difficult and almost require all parties - and their spouses - come into the bank personally to complete documents. This makes little sense as the world moves toward new technologies that do not require physical presence to apply for a loan.

*Adverse Action Notices.* Another problem is the adverse action notice. It would be preferable if banks could work with customers and offer them alternative loan products if they do not qualify for the type of loan for which they originally applied. However, that may then trigger requirements to supply adverse action notices. For example, it may be difficult to decide whether an application is truly incomplete or whether it can be considered "withdrawn". A straightforward rule on when an adverse action notice must be sent - that can easily be understood - should be developed.

*Other Issues.* Regulation B's requirements also complicate other instances of customer relations. For example, to offer special accounts for seniors, a bank is limited by restrictions in the regulation. And, most important, reconciling the regulation's requirements not to maintain information on the gender or race of a borrower and the need to maintain sufficient information to identify a customer under section 326 of the USA PATRIOT Act is difficult and needs better regulatory guidance.

*Home Mortgage Disclosure Act (HMDA) (Federal Reserve Regulation C)*
*Exemptions.*  The HMDA requirements are the one area subject to the current comment period that does not provide specific protections for individual consumers.  HMDA is primarily a data-collection and reporting requirement and therefore lends itself much more to a tiered regulatory requirement.  **The current exemption for banks with less than $33 million in assets is far too low and should be increased to at least $250 million.**

*Volume of Data.*  **The volume of the data that must be collected and reported is clearly burdensome.**  Ironically, at a time when regulators are reviewing burden, the burden associated with HMDA data collection was only recently increased substantially.  Consumer activists are constantly clamoring for additional data and the recent changes to the requirements acceded to their demands without a clear cost-benefit analysis.  All consumers ultimately pay for the data collection and reporting in higher costs, and regulators should recognize that.

Certain data collection requirements are difficult to apply in practice and therefore add to regulatory burden and the potential for error, e.g., assessing loans against HOEPA(the Home Owners Equity Protection Act) and reporting rate spreads; determining the date the interest rate on a loan was set; determining physical property address or census tract information in rural areas, etc.

**Flood Insurance**
The current flood insurance regulations create difficulties with customers, who often do not understand why flood insurance is required and that the federal government - not the bank - imposes the requirement.  The government needs to do a better job of educating consumers to the reasons and requirements of flood hazard insurance.  Flood insurance requirements should be streamlined and simplified to be understandable.

**Additional Comments**
It would be much easier for banks, especially community banks that have limited resources, to comply with regulatory requirements if requirements were based on products and all rules that apply to a specific product were consolidated in one place.  Second, regulators require banks to provide customers with understandable disclosures and yet do not hold themselves to the same standard in drafting regulations that can be easily understood by bankers.  Finally, examiner training needs to be improved to ensure that regulatory requirements are properly - and uniformly - applied.

**Conclusion**

The volume of regulatory requirements facing the banking industry today presents a daunting task for any institution, but severely saps the resources of community banks. **We need help immediately with this burden before it is too late.** Community bankers are in close proximity to their customers, understand the special circumstances of the local community and provide a more responsive level or service than megabanks. However, community banks cannot continue to compete effectively and serve their customers and communities without some relief from the crushing burden of regulation. Thank you for the opportunity to comment on this critical *issue*.

Very truly yours,

Ronald I. Sibley
President

RIS/mm